

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB421)

Received: **09/24/2009**

Received By: **gmalaise**

Wanted: **09/25/2009**

Identical to LRB:

For: **Tamara Grigsby (608) 266-0645**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement
Children - TPR and adoption**

Extra Copies: **Anne Sappenfield, LC
Laura Rose, LC**

Submit via email: **YES**

Requester's email: **Rep.Grigsby@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Indian child welfare; technical corrections

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/24/2009	wjackson 09/25/2009		_____			
/1	chanaman 09/29/2009	wjackson 09/29/2009	rschluet 09/25/2009	_____	sbasford 09/25/2009	sbasford 09/25/2009	
/2	chanaman 09/29/2009	wjackson 09/29/2009	mduchek 09/29/2009	_____	mbarman 09/29/2009		
/3			mduchek	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			09/29/2009 _____		09/29/2009	09/29/2009	

FE Sent For:

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/1		1/2 Wlj 9/29	rschluet 09/25/2009		sbasford 09/25/2009	sbasford 09/25/2009	

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1/3 Wlj 9/29

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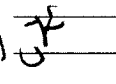
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/?	gmalaise	1 wlg 9/25					
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FE Sent For:

<END>

Malaise, Gordon

From: Sappenfield, Anne
Sent: Thursday, September 24, 2009 3:19 PM
To: Malaise, Gordon
Cc: Kahn, Carrie; McGinnis, Cindy; Rose, Laura
Subject: amdt request

Hi Gordon,

Please draft an amendment for Rep. Grigsby for AB 421 and for Sen. Jauch for SB 288 with the following:

- Go back to the prior language on the definition of "Indian parent" so non-Indian adoptive parents are not included in the definition.
- Also in that definition, strike "under s. 767.805" (the reference for acknowledging paternity) because, apparently, any form of acknowledgement is OK in a case involving an Indian child. (Per Mark Mitchell)
- On p. 21, line 19, strike "10" and substitute "15" to comply with ICWA timelines.
- Per Chris Dee's request (I think we talked about this last week), please cross-reference s. 48.415 (1) (intro.) in s. 48.31 (1) to make clear that the findings required in an Indian child's TPR proceeding may be made at the fact-finding or the dispositional hearing, depending upon whether the court makes partial summary judgment on the grounds.
- Mark M. thought there was a reference to a higher evidentiary standard for finding active efforts have been made in s. 48.31 (1). I can't find it, and I can't find it anywhere else. Does that ring a bell?

AB 421 is scheduled for an exec on Wednesday, so Cindy would like to have the amendment sometime tomorrow if possible. If not, could you let one of us know when to expect it? Thanks!!!

Anne Sappenfield
Senior Staff Attorney
WI Legislative Council
(608) 267-9485

Malaise, Gordon

From: Sappenfield, Anne
Sent: Thursday, September 24, 2009 3:41 PM
To: Malaise, Gordon
Subject: RE: amdt request

Good. I guess Mark thought the bill inadvertently required beyond a reasonable doubt for active efforts in one place but, like I said, I couldn't see it anywhere. I thought I should have you double check, though. Thanks!!

Anne

From: Malaise, Gordon
Sent: Thursday, September 24, 2009 3:40 PM
To: Sappenfield, Anne
Subject: RE: amdt request

Anne:

The evidentiary standard in s. 48.31 (1) for active efforts is clear and convincing evidence. That standard is also found in s. 48.028 (4) (d) 2. and (e) 2.

The beyond a reasonable doubt evidentiary standard in s. 48.31 (1) applies to serious damage, not to active efforts.

So, no, there is not a higher standard for active efforts in s. 48.31.

Gordon

From: Sappenfield, Anne
Sent: Thursday, September 24, 2009 3:19 PM
To: Malaise, Gordon
Cc: Kahn, Carrie; McGinnis, Cindy; Rose, Laura
Subject: amdt request

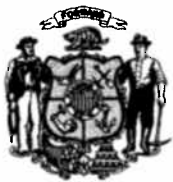
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Senior Staff Attorney
WI Legislative Council
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State of Wisconsin
2009 - 2010 LEGISLATURE

EN 9/24
Wanted For 9/25

LRBa0784/7
GMM.....

Wlj

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 421

At the locations indicated, amend the bill as follows:

1. Page 15, line 6: delete "a person" and substitute "an Indian person".

2. Page 15, line 9: delete "767.805 or" and substitute "767.805,".

3. Page 15, line 10: delete "state or" and substitute "state, or tribal law or custom to be the biological father or a person".

4. Page 21, line 19: delete "10" and substitute "15".

5. Page 48, line 10: delete "10" and substitute "15".

6. Page 49, line 3: delete "10" and substitute "15".

7. Page 51, line 10: after "1." insert ", unless partial summary judgment on the grounds for termination of parental rights is granted".

8. Page 62, line 1: delete "10" and substitute "15".

9. Page 85, line 11: delete "10" and substitute "15".

10. Page 66, line 12: delete "10" and substitute "15".

1 ✂ **10.** Page 92, line 14: delete "10" and substitute "15".

2 ✂ **11.** Page 114, line 16: delete "10" and substitute "15".

3 ✂ **12.** Page 121, line 14: delete "10" and substitute "15".

4 ✓ **13.** Page 127, line 21: delete "a person" and substitute "an Indian person".

5 ✓ **14.** Page 127, line 24: delete "767.805".

6 ✓ **15.** Page 128, line 1: delete that line and substitute "767.805, a substantially
7 similar law of another state, or tribal law or custom to be the biological father or a
8 person adjudicated to be the biological".

9 ✂ **16.** Page 133, line 24: delete "10" and substitute "15".

10 ✂ **17.** Page 156, line 12: delete "10" and substitute "15".

11 ✂ **18.** Page 157, line 16: delete "10" and substitute "15".

12 ✂ **19.** Page 167, line 16: delete "10" and substitute "15".

13 ✂ **20.** Page 169, line 15: delete "10" and substitute "15".

14 ✂ **21.** Page 175, line 9: delete "10" and substitute "15".

15 → (END)

Page 179, line 15: delete "10" and substitute "15" ○



State of Wisconsin
2009 - 2010 LEGISLATURE

TODAY

LRBa0784/X
GMM:wj:rs

2

stays

ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 421

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2 **1.** Page 15, line 6: delete "a person" and substitute "an Indian person".

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5 custom to be the biological father or a person".

6 **4.** Page 21, line 19: delete "10" and substitute "15".

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9 **7.** Page 51, line 10: after "1." insert ", unless partial summary judgment on the
10 grounds for termination of parental rights is granted".

11 **8.** Page 62, line 1: delete "10" and substitute "15".

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- 10.** Page 85, line 11: delete “10” and substitute “15”.
- 11.** Page 92, line 14: delete “10” and substitute “15”.
- 12.** Page 114, line 16: delete “10” and substitute “15”.
- 13.** Page 121, line 14: delete “10” and substitute “15”.
- 14.** Page 127, line 21: delete “a person” and substitute “an Indian person”.
- 15.** Page 127, line 24: delete “767.805”.
- 16.** Page 128, line 1: delete that line and substitute “767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological”.
- 17.** Page 133, line 24: delete “10” and substitute “15”.
- 18.** Page 156, line 12: delete “10” and substitute “15”.
- 19.** Page 157, line 16: delete “10” and substitute “15”.
- 20.** Page 167, line 16: delete “10” and substitute “15”.
- 21.** Page 169, line 15: delete “10” and substitute “15”.
- 22.** Page 175, line 9: delete “10” and substitute “15”.
- 23.** Page 179, line 15: delete “10” and substitute “15”.

(END)

LRBa0784/2ins

2 Page 122, line 8: delete “the Indian” and substitute “the an Indian”.

3 ~~1~~ Page 122, line 9: delete “the Indian” and substitute “the an Indian”.

4  Page 122, line 15: delete “the Indian” and substitute “the an Indian”.

5 ~~Page 122, line 16: delete “the Indian” and substitute “the an Indian”.~~

6 ~~1/5~~ Page 126, line 2: delete "the Indian" and substitute "an Indian".

7 ~~1~~ Page 126, line 8: delete "the Indian" and substitute "an Indian".



State of Wisconsin
2009 - 2010 LEGISLATURE

TODAY

3
LRBa0784/2
GMM:wlj:md
↑
stays

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TO 2009 ASSEMBLY BILL 421

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25. Page 157, line 16: delete "10" and substitute "15".

26. Page 167, line 16: delete "10" and substitute "15".

27. Page 169, line 15: delete "10" and substitute "15".

28. Page 175, line 9: delete "10" and substitute "15".

Page 122, line 8: delete that line and substitute (b) As a person who is both eligible for membership in the an Indian tribe or band

1 **29.** Page 179, line 15: delete “10” and substitute “15”.

2 (END)